

Child Protection Accountability Commission  
Training Committee  
De-Escalation of Life Support Workgroup  
**April 6, 2018**  
A.I. duPont Hospital for Children

**Meeting Minutes**

In Attendance:

Carole Davis, Esq.	Department of Justice
Dr. Stephanie Deutsch	A.I. duPont Hospital for Children
Dr. Meg Frizzola	A.I. duPont Hospital for Children
Susan Gordon, Esq.	Christiana Care
Shauna Hagan, Esq.	Parent Attorney
Mark Hudson, Esq., Co-Chair	Office of the Child Advocate
Honorable Peter B. Jones	Family Court
Jennifer Macaulay	A.I. duPont Hospital for Children
Dr. Elissa Miller	A.I. duPont Hospital for Children
Phyllis Rosenbaum, Esq.	A.I. duPont Hospital for Children
Molly Shaw, Esq., Co-Chair	Office of the Child Advocate
Janice Tigani, Esq.	Department of Justice
Jaime Zebroski	Division of Family Services

**I. Welcome and Introductions**

The Co-Chairs opened the meeting and attendees introduced themselves.

**II. Approval of Minutes – 2/7/18 Meeting**

The draft minutes were approved as written.

**III. Follow up**

Dr. Deutsch circulated the procedure used at Children's Hospital of Philadelphia (CHOP) in cases such as those that fall under this group's purview. Because Pennsylvania's child welfare system is set up differently than Delaware's, CHOP's procedure differs as well. However, CHOP also utilizes a family meeting like the one outlined in this Workgroup's protocol.

Jennifer Macaulay reported she sought feedback on similar protocols from other hospital social workers and got no response.

Judge Jones reported that the consensus among the Family Court Judges is that they could not provide protections to a doctor performing an independent medical evaluation, such as not being deposed or having to testify, absent an agreement among the parties.

#### **IV. Review of Draft Final Report and Protocol**

The workgroup reviewed the draft final report and draft protocol and discussed issues that needed clarification, including the best process for reaching out to a doctor for an independent medical evaluation, qualifications and procedure for performing an independent medical evaluation, and issuing scheduling orders on Motions to De-Escalate or Limit Care.

The workgroup determined that upon receipt of a motion to de-escalate or limit care, the Family Court should convene a teleconference to discuss scheduling and any other issues with counsel. The Family Court should then issue a scheduling order setting out the date of the hearing on the motion as well as dates when experts need to be identified, records produced to counsel, and expert reports provided to counsel.

It was also determined, that although a review of records is a component of an independent medical evaluation, a physical exam of the child must be performed. For this reason, telemedicine should not be considered for an independent medical evaluation. This clears up the group's discussion at a previous meeting concerning whether or not a doctor located at the Nemours' hospital in Florida might be able to perform the independent evaluation via telemedicine.

It was discussed that per the Critical Care Board, in addition to A.I. duPont Hospital for Children policy, brain death can only be diagnosed by a neurologist, neurosurgeon, or pediatric critical care specialist. While the children falling within the purview of this workgroup will not necessarily meet brain death criteria, they will typically be so close to brain death that any doctor selected to perform the independent medical evaluation should be a neurologist, neurosurgeon, or pediatric critical care specialist.

There was a consensus among workgroup members that if all parties are in agreement with the recommendation to de-escalate care, then a stipulation to de-escalate or limit care can be filed instead of a motion.

The workgroup also addressed that although the focus of discussion has been on requests to de-escalate medical care, the report and protocol should be considered equally applicable to requests for entry of Do Not Resuscitate and

Do Not Re-Intubate orders on a child's medical chart. Also, while the workgroup has primarily focused on procedure for de-escalating care prior to the termination of the parents' rights, the group discussed the need for a Court order in cases post-termination as well. In such a scenario, the child's attorney should file the motion or stipulation requesting de-escalation of medical treatment.

A question was raised about whether this protocol could be leveraged by parents charged with the death of their child, if they agree to de-escalation of care. The group agreed that the protocol merely outlines the procedure to be used in cases where a decision about de-escalation of care needs to be made and the child is in DSCYF custody, and does not suggest or support any particular course of action on the part of the parents.

#### **V. Next Steps**

The group agreed another meeting need not be scheduled. The Co-Chairs will incorporate the necessary changes to the final report and protocol and email the final drafts to the group for feedback and approval.

#### **VI. Public Comment**

There were no members of the public present.

#### **VII. Adjournment**

The meeting was adjourned at 3:00 p.m.